or in the case of every twentieth card "box of candy—5 cents". No nickel was inserted in the machine, but the article named was sold over the counter for the amount specified. The purchaser was able to see the card he was about to draw, but not the succeeding one. *Held,* defendant was guilty of operating a lottery. *State* v. *Lowe* (N. C. 1919) 101 S. E. 385.

The essential element of a lottery is the distribution of property by chance for a consideration. See *Almy Mfg. Co.* v. *City of Chicago* (1916) 202 Ill. App. 240, 245; 5 Columbia Law Rev. 399; Penal Law, N. Y., Consol. Laws, c. 40 (Laws of 1909, c. 88) § 1370; N. C. Pell's Rev. 1908, § 3726. And it is the elimination of such purely chance transactions that have given rise to anti-lottery statutes. See *State* v. *Lipkin* (1915) 169 N. C. 265, 271, 84 S. E. 340. The fact that the player is under no liability of sustaining a loss does not prevent any device from being in violation of gambling statutes. *In re Cullinan* (1906) 114 App. Div. 654, 99 N. Y. Supp. 1097; *Lang* v. *Merwin* (1905) 99 Me. 486, 59 Atl. 1021; *Almy Mfg. Co.* v. *City of Chicago, supra.* This is true even though the dominant purpose of the device be to stimulate trade. *People ex rel. Ellison* v. *Lavin* (1904) 179 N. Y. 164, 168, 71 N. E. 753. So called "gift-enterprises", whereby prizes are awarded by a merchant to such of his customers as prove to be lucky in accordance with a definite scheme, are included in the classification of lotteries. *Standridge* v. *Williford-Burns-Rice Co.* (1918) 148 Ga. 283, 96 S. E. 498; *Corporate Organization, etc., Co.* v. *Hedges* (D. C. 1918) 47 App. D. C. 460. But the relation of the parties must be contractual not merely gratuitous. *People* v. *Mail & Exp. Co.* (1919), 179 N. Y. Supp. 640. And, if in the instant case it could have been shown that the customers by pulling the lever incurred no obligation to pay the five cents, nor the merchant to sell the article, the machine would not have been a lottery. But it would seem that such an interpretation of the facts is hardly justifiable.

EVIDENCE—UNLAWFUL SEIZURE OF CORPORATE PAPERS—FOURTH AMENDMENT.—A and B, officers of the AB corporation, were indicted by the United States. The federal marshal seized papers from the office of the corporation without warrant for purposes of evidence. The corporation made a timely application for the return of the documents which was granted. But the government made and retained copies of the papers, on the basis of which information a *subpoena* was issued ordering the AB corporation, A president, to produce the originals. On A's refusal to surrender the papers, he was imprisoned for contempt and the corporation fined. On error, *held,* the corporation was privileged in resisting the *subpoena* under the Fourth Amendment. *Silverthorne Lumber Co.* v. *United States* (U. S. Sup. Ct., Jan. 26, 1920) 62 N. Y. L. J. 1497.

The weight of state authority is opposed to the federal rule that in some circumstances, evidence which has been illegally obtained is inadmissible against one from whom the evidence was so procured. 14 Columbia Law Rev. 338. See *People* v. *McDonald* (1917) 177 App. Div. 806, 165 N. Y. Supp. 41. Before he can object to the admission in evidence of papers wrongfully taken from him by federal authorities, the defendant must have promptly applied for their return. *Weeks* v. *United States* (1914) 232 U. S. 383, 34 Sup. Ct. 341 (*semble*); *Laughter* v. *United States* (C. C. A. 1919) 259 Fed. 94; *Lyman* v. *United States* (C. C. A. 1917) 241 Fed. 945; *Rice* v. *United States* (C. C. A. 1918)

251 Fed. 778. But if papers not stipulated in a search warrant are seized in connection with some which have been validly confiscated under a warrant, there is *dicta* to the effect that such evidence is admissible. See *Adams* v. *New York* (1904) 192 U. S. 585, 598, 24 Sup. Ct. 372; *Weeks* v. *United States, supra; cf. United States* v. *Friedberg* (D. C. 1916) 233 Fed. 313. But this distinction seems unsound for papers seized beyond the scope of the immunity provided by the warrant are as illegally seized as if there had been no warrant at all. Omitting consideration of the corporate aspect of the instant case, since timely application was made for the return of the papers, the result seems sound. But for the specific information acquired from the illegal seizures, the United States would have been unable to draft a sufficiently definite *subpoena* to be valid. *Cf. In re Tri-State Coal & Coke Co.* (D. C. 1918) 253 Fed. 605. Thus the government clearly turned to its advantage the knowledge obtained through the raid. The notion that a corporation may object to the use of documents illegally taken from its possession, in evidence against its officers, is inconsistent with though not directly contrary to earlier holdings. Under the Fifth Amendment, a corporation is considered to be an entity sufficiently distinct from its officers so that the mere fact that evidence might incriminate the latter will not excuse the corporation from producing it. *Wilson* v. *United States* (1911) 221 U. S. 361, 31 Sup. Ct. 538; *Grant & Burlingame* v. *United States* (1913) 227 U. S. 74, 33 Sup. Ct. 190; *Wheeler* v. *United States* (1903) 226 U. S. 478, 33 Sup. Ct. 158; *Linn* v. *United States* (C. C. A. 1918) 251 Fed. 476. Perhaps this is because a corporation itself is not protected by the Fifth Amendment. *Hale* v. *Henkel* (1906) 201 U. S. 43, 69, 26 Sup. Ct. 370. However, evidence illegally procured from A is always admissible against B, *Tsuie Shee* v. *Backus* (C. C. A. 1917) 243 Fed. 551, and it probably follows that in such a case A could not object to its use against B. So in the principal case if the corporation and its officers are distinct, it seems hard to see how the corporation could object to the use of the evidence against the latter. Possibly the court distinguished the case on the ground that the Fourth Amendment applied to corporations. But actually it seems that since the case involved a small private corporation, the court felt that to apply the fiction of corporate entity would have been subversive of fundamental constitution guarantees.

EVIDENCE—VALUE—INDIVIDUAL SALES OF STOCK ADMISSIBLE.—An attorney accepted a case on a contingent basis agreeing to receive as compensation a percentage of the defendant's inheritance. A part of the inheritance was in brewing stocks for which there was no open market. To prove their value the plaintiff offered as evidence *bona fide* sales of such stocks during the same period in which the defendant received them. *Held,* such evidence was admissible. *Dolph* v. *Speckart* (Ore. 1920) 186 Pac. 32.

Since Oregon, following the so-called Massachusetts rule, admits evidence of the price secured at a *bona fide* sale of similarly situated realty in determining the value of a particular parcel, *Portland* v. *Investment Co.* (1913) 64 Ore. 410, 129 Pac. 756, *a fortiori* a sale of stock should be admissible evidence of the value of other stock in the same corporation. Other jurisdictions, taking a contrary view, reject such testimony in the case of realty, *Robinson* v. *N. Y. Elevated R. R.* (1903) 175 N. Y. 219, 67 N. E. 431; see *In Matter of Thompson* (1891) 127 N. Y. 463, 468, 28 N. E. 389, holding that since the purchase is but the